

ORDINANCE NO. CO06.19.10.24.E6

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, AMENDING CEDAR PARK CODE OF ORDINANCES CHAPTER 12 SUBDIVISION REGULATIONS, ARTICLE 12.03 PROCEDURES, SECTION 12.03.006 PROCEDURES FOR DETERMINATIONS OF MUNICIPAL INFRASTRUCTURE COST APPORTIONMENT DETERMINATION AND APPEALS FOR SUCH DETERMINATIONS, AND CHAPTER 14 SITE DEVELOPMENT, ARTICLE 14.04 NONRESIDENTIAL AND MULTIFAMILY SITE DEVELOPMENT REQUIREMENTS, SECTION 14.04.001 APPROVAL REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, Texas Local Government Code Section 212.904 authorizes the City to require as a condition of approval for a property development project that the developer bear a portion of the costs of municipal infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs so long as the developer's portion is roughly proportionate to the proposed development; and

WHEREAS, Senate Bill 1510 added requirements to the process outlined in Section 212.904, specifically a 30-day deadline for providing a municipality's determination regarding rough proportionality; and

WHEREAS, this proposed amendment sets forth a process by which a developer may request a municipality's determination of municipal infrastructure cost apportionment and the process to appeal the City's determination while incorporating the requirements created by the recent Legislation; and

WHEREAS, the City Council finds that such process is beneficial to the development process for both developers and the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS:

SECTION 1. The Cedar Park Code of Ordinances, Chapter 12 Transportation Regulations, Article 12.03 Procedures, Section 12.03.006 Procedures for Determinations of Municipal Infrastructure Cost Apportionment Determination and Appeals for Such Determination is hereby amended in accordance with Exhibit A.

SECTION 2. The Cedar Park Code of Ordinances, Chapter 14 Site Development, Article 14.04 Nonresidential and Multifamily Site Development Requirements, Section 14.04.001 Approval requirements is hereby amended in accordance with Exhibit A.

SECTION 3. That the provisions of this ordinance are severable and the invalidity of any word, phrase or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

SECTION 4. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 5. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

READ AND CONSIDERED ON FIRST READING by the City Council of Cedar Park at a regular meeting on the 3rd day of October, 2019, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED, AND APPROVED ON SECOND AND FINAL READING by the City Council of Cedar Park at a regular meeting on the 24th day of October, 2019, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

PASSED AND APPROVED this the 24th day of October, 2019.

CITY OF CEDAR PARK, TEXAS


Corbin Van Arsdale, Mayor

ATTEST:


LeAnn M. Quinn, TRMC
City Secretary

APPROVED AS TO FORM
AND CONTENT:


J.P. LeCompte, City Attorney



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EXHIBIT A

Sec. 12.03.006 Procedures for determinations of municipal infrastructure cost apportionment determination and appeals for such determinations

(a) Purpose. The purpose of this Section is to govern the procedures to request from the City a determination of municipal infrastructure cost apportionment and the procedures of an appeal by a developer of its proportionate share of the costs of municipal infrastructure improvements as provided by state law.

(b) Determination of proportionate share.

(i) A developer who is required to pay a proportionate share of municipal infrastructure pursuant to Local Government Code Section 212.904, as amended, and who has submitted an application pursuant to Chapter 12 or Chapter 14, herein, may request from the City a determination of the developer's proportionate share. The request for a determination shall be emailed to the Director of Engineering.

(ii) The City's determination of the developer's proportionate share shall be completed within thirty (30) days following the submission of the developer's request for a determination of the developer's proportionate share.

(c) Appeal

(i) In the event that a developer disputes the determination of the City for its costs of municipal infrastructure improvements for a property development project, the developer must file a written appeal with the Director of Engineering requesting a determination by the City Council.

(ii) A written appeal shall set forth the infrastructure improvements, charges or costs of the municipal infrastructure improvements the developer seeks to contest.

(iii) Failure of the developer to appear on the scheduled date and time at the appeal hearing before the City Council shall be grounds for dismissal.

(d) Standards for City Council evaluation of the contested infrastructure cost apportionment.

The developer shall bear the burden of proof to demonstrate that the City's municipal infrastructure cost apportionment determination is not roughly proportionate. The party appealing to the City Council shall have the burden of first presenting evidence as provided by these rules. The City Council shall evaluate the contested infrastructure cost apportionment determination under the following standards:

(i) Whether the infrastructure cost apportionment determination relates to the needs created by the property development project.

(ii) Whether the infrastructure cost apportionment determination is roughly proportionate to the impact of the property development project.

(e) Procedural rules. The following procedural rules shall apply to appeals under this article:

(1) Opening of the hearing. The presiding officer of the City Council shall call the agenda item and open the hearing. The developer and the City may opt to have all or portions of the hearing conducted by a representative.

(2) Developer's presentation.

(i) The developer shall present written evidence and oral or written testimony regarding the infrastructure administrative apportionment determination to the council.

(ii) If more than one apportionment determination is being contested by the developer, the developer shall present as part of his presentation an enumerated list of contested apportionment determinations.

(iii) The developer may present oral testimony, written document, or both during the presentation of evidence and testimony.

(iv) If the developer wishes to introduce written documentation, it must be provided to the city secretary no later than seven calendar days in advance of the hearing to ensure that council members have time to review the material prior to the hearing.

(v) If the developer wishes to induce expert testimony, it must file written testimony no later than seven days prior to the appeal hearing.

(3) City Council examination/clarification of developer's presentation. Following the developer's presentation, the City Council may ask questions of the developer, and the developer's witnesses and representatives.

(4) City presentation. City staff, witnesses, and representatives may offer evidence and testimony regarding the apportionment determination or other relevant issue raised by the developer during his presentation or as directed by city council.

(5) City Council examination/clarification of City's presentation. The City Council may question the City staff, witnesses, or representatives regarding the apportionment determination or other relevant issue raised in the presentations.

(6) Developer's cross-examination of City witnesses and rebuttal. The developer may question or cross-examine the City staff, witnesses, or representatives regarding the apportionment determination, the disputed issues raised by the developer, and any other area of testimony or evidence they addressed in their presentation or in response to City

Council examination. The developer may also introduce rebuttal evidence during this stage of the proceeding.

(7) City Council re-examination/clarification. The City Council may conduct further questioning of any previously called witness or seek any further explanation on any issue raised in the hearing.

(8) Developer re-cross and closing statement. Following the conclusion of the City Council's re-examination, the developer shall be given the option to conduct further questioning or cross-examination of any previously called witness. The developer shall also be given the option to make a brief summation of his arguments or a closing statement.

(9) Closure and timetable for decision. Upon conclusion of the developer's case, the presiding officer shall inquire whether the developer has submitted all the evidence and testimony he wishes the council to consider. If the developer indicates all evidence and testimony has been submitted, the council shall issue a determination within 30 days of the conclusion of the hearing.

(f) City Council authority. The City Council shall have the authority to affirm or overturn the findings of the City staff in making the infrastructure apportionment determination in whole or in part, and may make or modify an award or refund to the developer in order to conform with the standards of rough proportionality set forth in Texas Local Government Code, § 212.904, and the standards set forth in Subsection (a), herein. The applicable determination by the City Council shall be made within thirty (30) days following the final submission of any testimony or evidence by the developer.

Sec. 12.03.00~~76~~ Interpretation and validity

The provisions of this Chapter shall be considered to be the minimum requirements for the promotion of the public health, safety and general welfare. These regulations shall be consistently applied in order to accomplish the purposes within [section 12.01.003](#). (Ordinance CO36-18-08-09-E2 adopted 8/9/18)

Chapter 14 Site Development

Article 14.04 Nonresidential and Multifamily Site Development Requirements

Section 14.04.001 Approval Requirements

- (a) The applicant shall comply with all applicable requirements and regulations.
- (b) Site development plans may not be approved on unplatted property except if the unplatted property meets the definition of a legal lot.
- (c) All improvements shown on an approved set of site development plans must be completed prior to issuance of the certificate of occupancy.
- (d) If site development is proposed to be constructed in phases, the applicant shall clearly identify all phases on the site plan and all other applicable materials that accompany site plan. A certificate of occupancy may be granted for a partial development if the partial development is consistent with the phasing shown on an approved site plan.
- (e) The site development plans must conform to any recorded plat or filed master plan or master preliminary plan for that same property or subdivision of which it is a part.

(f) No site development permit shall be issued until the applicant has fulfilled any obligations for their proportionate share of municipal infrastructure costs pursuant to Texas Local Government Code Section 212.904, as amended, and complied with the process for such a determination pursuant to Section 12.03.006, herein, as amended.

(g) Fees for site development applications shall be as set by the City Council by separate resolution hereto. Said resolution is incorporated herein by reference as though reproduced herein verbatim. Fees are due and payable at time of application and are nonrefundable.

(h) Any person or persons seeking to appeal findings of noncompliance by the Development Services Director and/or the Development Services Committee may be made to the Planning and Zoning Commission. Application for appeal shall be made in writing with the Development Services Department no less than thirty (30) working days after the date the Development Services Committee sends comments to the applicant regarding his/her site.